GOVERNMENT OF MYSORE. 5/10

Legislative Department.

NOTIFICATION.

No. L.D. 2307—Legis. 8-51-47, dated Bangalore, 8th March 1952.

Ordered that the Territorial Army (Amendment) Bill, 1952 (Central Bill No. 17 of 1952), published in the *Gazette of India*, Part II, Section 2, dated the 23rd February 1952, be re-published in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

BILL NO. 17 OF 1952.

A Bill further to amend the Territorial Army Act, 1948.

BE it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called the Territorial Army (Amendment) Act, 1952.

2. **Insertion of new sections 7A and 7B in Act LVI of 1948.**—After section the 7 of Territorial Army Act, 1948 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely :—

"7A. *Reinstatement in civil employ of persons required to perform military service.*—(*1*) It shall be the duty of every employer by whom a person who is required to perform military service under section 7 was employed to reinstate him in his employment on the termination of the military service in an occupation and under conditions not less favourable to him than those which would have been applicable to him had his employment not been so interrupted :

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the prescribed authority and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed, pass an order—

(*a*) exempting the employer from the provisions of this section, or

(*b*) requiring him to re-employ such person on such terms as he thinks suitable, or

(*c*) requiring him to pay to such person by way of compensation for failure to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (*1*), he shall be punishable with fine

511

which may extend to one thousand rupees, and the court by which an employer is convicted under this section may order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of his military service.

(4) The duty imposed by sub-section (*1*) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually required to perform military service under section 7, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved if the termination takes place after the issue of orders requiring him to perform military service under this Act.

7B. *Preservation of certain rights of persons required to perform military service.*—When any person required to perform military service under section 7 has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, so long as he is engaged in military service under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed.".

3. Amendment of section 14, Act LVI of 1948—In sub-section (*2*) of section 14 of the principal Act, after clause (*d*), the following clauses shall be inserted, namely :—

"(*dd*) specify the authority for the purpose of the proviso to sub-section (*1*) of section 7A and the manner in which any inquiry may be held by him ;

(*ddd*) define the rights under section 7B ;"

STATEMENT OF OBJECTS AND REASONS.

The Territorial Army Act, 1948, does not at present contain any provision affording protection in civil employment to those who join the Territorial Army, with the result that some private employers have found it possible to refuse to allow their employees to retain a lien on their appointments while on duty with the Territorial Army. These difficulties were foreseen when the Territorial Army Act was enacted, but it was hoped at the time that employers would generally co-operate with Government in this national effort and voluntarily ensure that no person suffers either financially or otherwise by joining the Territorial Army.

2. Although many employers have treated their employees fairly, even generously, in this matter, experience has shown that there are many others who are not willing to act likewise. It has therefore become expedient to amend the Territorial Army Act to impose a statutory liability on the employers to afford necessary protection in civil employment to members of the Territorial Army and the proposed legislation seeks to achieve this purpose.

BALDEV SINGH.

NEW DELHI ;

The 9th February, 1952.